

**EXHIBIT A**

**TO**

**DECLARATION OF SEAN F. CONNOLLY IN SUPPORT OF DEFENDANT  
CITY AND COUNTY OF SAN FRANCISCO, CHIEF OF POLICE HEATHER  
FONG, OFFICER SERNA AND OFFICER ARTIGA'S NOTICE AND MOTION  
FOR SUMMARY JUDGMENT AND/OR PARTIAL SUMMARY JUDGMENT**

JOHN L. BURRIS, Esq./ State Bar #69888  
BENJAMIN NISENBAUM, Esq./State Bar #222173  
LAW OFFICES OF JOHN L. BURRIS  
Airport Corporate Centre  
7677 Oakport Street, Suite 1120  
Oakland, California 94621  
Telephone: (510) 839-5200 Facsimile: (510) 839-3882  
Email: [john.burris@johnburrislaw.com](mailto:john.burris@johnburrislaw.com)  
[bnisenbaum@gmail.com](mailto:bnisenbaum@gmail.com)

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ESTHER HWANG,

Plaintiff,

vs.

Case No. C 07 2718 WDB

**FIRST AMENDED COMPLAINT FOR  
DAMAGES FOR VIOLATION OF CIVIL  
RIGHTS.  
JURY TRIAL DEMANDED**

CITY AND COUNTY OF SAN FRANCISCO,  
a municipal corporation; HEATHER FONG, in  
her capacity as Chief of Police for the CITY  
AND COUNTY OF SAN FRANCISCO; JESSE  
SERNA, individually, and in his capacity as a  
police officer for the CITY AND COUNTY OF  
SAN FRANCISCO; NELSON ARTIGA,  
individually and in his capacity as a police  
officer for the CITY AND COUNTY OF SAN  
FRANCISCO; and, San Francisco police officers  
DOES 1-25, inclusive,

Defendants.

INTRODUCTION

On the night of May 12, 2007, Plaintiff ESTHER HWANG was abused and battered by SAN FRANCISCO police officers in North Beach outside of a nightclub after she attempted to make casual conversation with one of the Defendant Officers. Plaintiff HWANG is formerly Miss Korea San Francisco, Miss Asian America, and Miss Greater San Francisco, a former secretary to former

1 San Francisco mayor Willie Brown, and is currently a professional model who graduated from law  
2 school in June 2007. Plaintiff HWANG has also worked as a spokes-model and assisted numerous  
3 organizations, including the San Francisco Police Officers' Association, with fundraising.

4 Defendant Officer SERNA, who reportedly has been on Defendant CITY AND COUNTY  
5 OF SAN FRANCISCO Police Department's internal watch list nine times for his abnormally high  
6 number of reported uses of force, without justification twisted Plaintiff HWANG's arm behind her  
7 back and yanked Plaintiff to the ground by Plaintiff's hair. Plaintiff had done nothing to provoke any  
8 use of force or an arrest. Defendant Officers SERNA and ARTIGA instigated the malicious and  
9 baseless use of force and wrongful arrest of Plaintiff. Unknown Defendant Officers DOES stood by  
10 in obvious discomfort while Defendant Officers SERNA and ARTIGA yelled at Plaintiff and  
11 revealed their misogyny by calling her a "fucking cunt." The unknown Defendant Officers DOES  
12 stood by and failed to intervene in Defendant Officers SERNA's and ARTIGA's intolerable abuse of  
13 Plaintiff. Defendant Officers later lied by claiming in their police reports that Plaintiff was drunk in  
14 public. In fact, Defendant Officers were well aware at the time of the arrest that Plaintiff showed no  
15 objective signs of being under the influence.

#### 16 JURISDICTION

17 1. This action arises under Title 42 of the United States Code, Section 1983. Jurisdiction  
18 is conferred upon this Court by Title 28 of the United States Code, Sections 1331 and 1343. The  
19 unlawful acts and practices alleged herein occurred in the City and County of San Francisco,  
20 California, which is within this judicial district.

#### 21 PARTIES

22 2. Plaintiff herein, ESTHER HWANG ("HWANG"), is and was at all times herein  
23 mentioned readily recognizable as an Asian-American woman and she is a citizen of the United  
24 States residing in the City and County of San Francisco in California.

25 3. Defendant City and County of San Francisco ("CITY") is a municipal corporation,  
26 duly organized and existing under the laws of the State of California. Under its authority, the City  
27 operates the San Francisco Police Department.  
28

1  
2 4. At all times mentioned herein, Defendant HEATHER FONG ("FONG") was  
3 employed by Defendant CITY as Chief of Police for Defendant CITY. She is being sued in her  
4 official capacity as Chief of Police for Defendant CITY.

5 5. At all times mentioned herein, Defendant JESSE SERNA ("SERNA") was employed  
6 by Defendant CITY as a police officer. He is being sued individually and in his official capacity as a  
7 police officer for the City.

8 6. At all times mentioned herein, Defendant NELSON ARTIGA ("ARTIGA") was  
9 employed by Defendant CITY as a police officer. He is being sued individually and in his official  
10 capacity as a police officer for the City.

11 7. Plaintiff is ignorant of the true names and capacities of Defendants DOES 1 through  
12 25, inclusive, and therefore sues these defendants by such fictitious names. Plaintiff is informed and  
13 believes and thereon alleges that each Defendant so named is responsible in some manner for the  
14 injuries and damages sustained by Plaintiff as set forth herein. Plaintiff will amend her complaint to  
15 state the names and capacities of DOES 1-25, inclusive, when they have been ascertained.

16 8. In engaging in the conduct described herein, Defendant police officers acted under the  
17 color of law and in the course and scope of their employment with the City. In engaging in the  
18 conduct described herein, Defendant police officers exceeded the authority vested in them as police  
19 officers under the United States and California Constitutions and as police officers employed by  
20 Defendant CITY.

21 9. For state-law based causes of action Plaintiff is required to comply with an  
22 administrative claim requirement. Plaintiff has complied with all applicable requirements.

23  
24 **STATEMENT OF FACTS**

25 10. On the evening of May 12, 2007, Plaintiff ESTHER HWANG and her boyfriend  
26 celebrated Mother's Day and Plaintiff HWANG's sister-in-law's birthday by having a family dinner  
27 at the House of Prime Rib on Van Ness Avenue in San Francisco.  
28

1           11.     Following dinner on May 12, Plaintiff and her boyfriend, Nathan Flores, also a student  
2 at San Francisco Law School, went out to a nightclub in the North Beach area of San Francisco. The  
3 club they decided to attend, "Dolce", located at 440 Broadway, between Kearny and Montgomery  
4 Streets, has a selective dress-code. Plaintiff HWANG and Mr. Flores were dressed appropriately.  
5 Plaintiff HWANG wore a short-cut dress and a fur coat. She also wore a string-pearl necklace.

6           12.     Plaintiff HWANG and Mr. Flores arrived at Dolce around 10:00 p.m. Plaintiff  
7 HWANG and Mr. Flores checked their coats upon entry. Plaintiff HWANG and Mr. Flores were in  
8 Dolce for approximately half an hour. It was early and there were not many people at Dolce, so  
9 Plaintiff and Mr. Flores decided to leave and possibly go to a nightclub located across the street from  
10 Dolce, the "Zebra Lounge." Plaintiff HWANG checked with the security doorman at Dolce to make  
11 sure that they could leave their coats while they went to the Zebra Lounge. It was no problem for the  
12 couple to leave their coats temporarily at Dolce. The couple did not expect to be out late that night.

13           13.     Once the couple stepped outside of Dolce, Plaintiff HWANG asked Mr. Flores for  
14 some of her cash, which Mr. Flores carried since Plaintiff did not have her purse, to buy a pack of  
15 cigarettes from Broadway Liquors, which is located at 460 Broadway, two doors down from Dolce.  
16 Plaintiff took some of her cash from her boyfriend's hand and went into Broadway Liquors where she  
17 purchased a pack of light menthol cigarettes from an older gentleman who was at the cash register of  
18 Broadway Liquors. Mr. Flores waited outside on the sidewalk for Plaintiff HWANG. Mr. Flores  
19 noticed several uniformed San Francisco police officers standing nearby and had a brief casual  
20 conversation with one of the police officers.

21           14.     Plaintiff HWANG returned from the liquor store with her purchased cigarettes. The  
22 couple decided that they should get their checked coats, since they would be leaving shortly. Plaintiff  
23 HWANG intended only to say hello to a person she knew who worked at Zebra Lounge before going  
24 home. Mr. Flores went back into Dolce to pick up the two coats from the coat check. Plaintiff  
25 HWANG stood near the group of officers, who were standing around to her left. She lit her cigarette  
26 and attempted to make casual conversation with one of the officers she noticed, later identified as  
27 Defendant Officer SERNA. She did not attempt to jaywalk, nor was she physically assaultive to  
28 anyone.

1           15. Plaintiff HWANG's attempt at conversation, along with her attempt to smoke her  
2 cigarette, were interrupted by the sudden action of Defendant Officer SERNA who, without any  
3 rational reason, grabbed Plaintiff HWANG's left arm and forcefully twisted it behind her. Defendant  
4 Officer ARTIGA grabbed Plaintiff by the right arm and twisted that arm behind her back. The two  
5 officers pressed Plaintiff HWANG from behind and forced her head down. Plaintiff was unaware of  
6 why she was being manhandled and feared for her safety. Plaintiff HWANG reacted instinctively and  
7 stepped her heel on one of the officer's feet.

8           16. Defendant Officer SERNA aggressively yanked Plaintiff by the hair at the base of her  
9 neck and pulled her down to the ground backward so that Plaintiff, who is 5'8" and 125 pounds,  
10 landed directly on her back on the ground. Defendant Officer SERNA stood over Plaintiff HWANG,  
11 with his face directly over Plaintiff's face. Without reason, Defendant Officer SERNA called  
12 Plaintiff HWANG a "fucking cunt."

13           17. Mr. Flores, who was returning with the coats, saw the commotion where he had left  
14 Plaintiff HWANG. He approached and saw several unknown Defendant Officer DOES standing  
15 around in obvious discomfort. He saw two police officers by Plaintiff HWANG, who was on her  
16 back on the ground and saying "I want to get up." Defendant Officer ARTIGA repeated Defendant  
17 Officer SERNA's slur and called Plaintiff HWANG a "stupid fucking cunt" in her face, in Mr.  
18 Flores' presence.

19           18. Plaintiff HWANG was handcuffed on the ground, with a lower button on her skirt torn  
20 off, for a substantial amount of time. Her clothing was in a state of disarray after the use of force  
21 against her, leaving her breasts partially exposed. Defendant Officer ARTIGA continued to taunt  
22 Plaintiff. He claimed to recognize her. Mr. Flores asked the officers if he could give Plaintiff her  
23 coat, but one of the defendant officers told him Plaintiff could not wear a fur coat to jail. Defendant  
24 Officer SERNA was hostile to Mr. Flores and attempted to intimidate him. After Mr. Flores provided  
25 Plaintiff's identification to the officers, one of the defendant officers called out Plaintiff HWANG's  
26 name as if he were familiar with her.  
27  
28



1           19. Defendant Officers allowed Mr. Flores to remove Plaintiff's pearl necklace which was  
2 bent during the incident. Defendant Officer SERNA told Mr. Flores that he should let Plaintiff  
3 HWANG "rot in jail," and that the officers should just cut off Plaintiff HWANG's necklace.

4           20. Defendant Officer SERNA continued his tactics of intimidation and demanded Mr.  
5 Flores' identification. Mr. Flores, in frustration, asked why the officers needed his identification.  
6 Defendant Officer SERNA responded condescendingly that it was needed because he was retrieving  
7 property from Plaintiff HWANG. Mr. Flores provided his identification and let Defendant Officer  
8 SERNA know that his attitude was beyond the pale. Mr. Flores mentioned that he had gone to law  
9 school and knew what his rights were. Defendant Officer SERNA insulted Mr. Flores and told him  
10 that he should get his money back from the law school

11           21. Plaintiff suffered back pain from the moment she hit the ground after Defendant  
12 Officer SERNA pulled her hair. She was eventually transported from the scene in a police wagon to  
13 Central station where Defendant Officer ARTIGA took her Spiga heels, purportedly for "evidence."  
14 Officers at the station made disturbing comments to Plaintiff including comments such as "this is the  
15 real world" and "we will take you down."

16           22. Plaintiff HWANG has suffered from anxiety attacks and takes medication for the  
17 condition. At Central Station, Plaintiff HWANG experienced hyperventilation and repeatedly  
18 requested her medication, but no assistance was forthcoming. Plaintiff HWANG suffered an anxiety  
19 attack. Instead, Plaintiff heard a lot of catcalls from male police officers and someone calling her "a  
20 wild one." Plaintiff HWANG passed out briefly due to the anxiety attack. Plaintiff was shaking when  
21 she awoke after the anxiety attack. Plaintiff awoke to one male officer hitting her on the head and  
22 holding her from around the neck.

23           23. Several male officers at Central Station picked Plaintiff up and carried her out to the  
24 police wagon. One of the male officers had his hand inside of Plaintiff's skirt and fondled her  
25 buttocks. The officers made rude and sexually inappropriate comments as they carried her to the  
26 police wagon.

27           24. Plaintiff was then transported to 850 Bryant Street, where she faced three female  
28 police officers. Initially, the female police officers were confrontational with Plaintiff. After a short

1 time of accusing Plaintiff of criminal behavior, one of the female officers recognized that Plaintiff  
2 was suffering an anxiety attack and refused to accept her into custody at 850 Bryant due to her  
3 medical condition. Defendant Officer ARTIGA was present. Instead of taking Plaintiff to the  
4 hospital, Defendant Officer ARTIGA had Plaintiff sign a citation to appear in court on false criminal  
5 charges. Plaintiff called a San Francisco Police Department officer friend of hers, who picked her up  
6 from the jail at 850 Bryant.

7 25. Plaintiff is unaware of any rational basis that could reasonably justify Defendant  
8 Officer SERNA's continued placement in the community as a police officer empowered by the laws  
9 of the State of California to use force and make arrests. Defendant Officer SERNA's highly  
10 publicized extensive history of wrongdoing includes logging more uses of force than any other San  
11 Francisco police officer during a 9 year period studied by the San Francisco Chronicle and appearing  
12 on a use of force watch list nine times, according to an article published in the San Francisco  
13 Chronicle on February 6, 2006, entitled "Counting Without Consequence". Plaintiff alleges a pattern  
14 of excessive force by Defendant Officer SERNA wrongfully justified by false claims of Defendant  
15 Officer SERNA and supporting officers that has continued unabated. Defendant Officer SERNA's  
16 history of flagrant and frequent abuse was reported in the San Francisco Chronicle more than one  
17 year before the subject-incident. Indeed, a federal lawsuit filed days before the subject-incident  
18 alleged similar unprovoked abuse by Defendant Officer SERNA that occurred on August 20, 2006 on  
19 Broadway near the intersection of Kearny Street. In that incident, Defendant Officer SERNA beat  
20 Gregory Oliver, II, a personal trainer to numerous professional athletes, including Barry Bonds, with  
21 a nightstick before wrongfully arresting him on false charges of interfering with a police officer. In  
22 that incident, Mr. Oliver had only pointed out to Defendant Officer SERNA that he was using force  
23 against a man who had been the victim of an apparent battery that happened moments before and was  
24 witnessed by Mr. Oliver. Defendant Officer SERNA also broke Mr. Oliver's necklace when he  
25 grabbed Mr. Oliver's shirt and necklace by Mr. Oliver's chest.

26 26. The arrest and use of force against Plaintiff on or about May 12, 2007 was malicious,  
27 wanton and was done without any just provocation or cause, proximately causing Plaintiff's damages.  
28



28. As a proximate result of defendants' conduct, plaintiff suffered severe and extreme emotional distress, physical, psychological and emotional injury, fear, terror, anxiety, humiliation, and loss of her sense of security, dignity, and pride as a United States citizen.

(Against Defendant Officer SERNA, ARTIGA and DOES 1-10)

30. In doing the acts complained of herein, Defendants SERNA, ARTIGA and DOES 1 through 10, inclusive, and/or each of them, acted under color of law to deprive Plaintiff of certain constitutionally protected rights, including, but not limited to:

WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

(Against Defendants CITY, HEATHER FONG, and DOES 11-25)

32. Plaintiff is informed and believes and thereon alleges that high ranking City of San Francisco officials, including high ranking police supervisors, such as Defendant HEATHER FONG, DOES 11 through 25, and/or each of them, knew and/or reasonably should have known about

1 the repeated acts of misconduct by defendant Officers SERNA, ARTIGA and DOES 1-10, and/or  
2 each of them.

3 33. Plaintiff is informed and believes and thereon alleges that, despite having such notice,  
4 Defendants FONG, DOES 11-25, and/or each of them, approved, ratified, condoned, encouraged  
5 and/or tacitly authorized the continuing pattern and practice of misconduct and/or civil rights  
6 violations by said officers.  
7

8 34. Plaintiff is further informed and believes and thereon alleges that as a result of the  
9 deliberate indifference, reckless and/or conscious disregard of the misconduct by Defendants  
10 SERNA, ARTIGA and DOES 1-10, and/or each of them, Defendants FONG, DOES 11-25, and/or  
11 each of them, encouraged these officers to continue their course of misconduct, resulting in the  
12 violation of the Plaintiff's rights as alleged herein.  
13

14 35. The aforementioned acts and/or omissions and/or deliberate indifference by high  
15 ranking City and County of San Francisco officials, including high ranking City and County of San  
16 Francisco Police Department supervisors, Defendants FONG, DOES 11-25, and each of them  
17 resulted in the deprivation of Plaintiff's constitutional rights including, but not limited to, the  
18 following:  
19

- 20  
21  
22 a. The right to be free from unreasonable searches and seizures, as guaranteed by the Fourth  
23 and Fourteenth Amendments to the United States Constitution;

24 36. These rights are substantive guarantees under the Fourth and/or Fourteenth  
25 Amendments to the United States Constitution.  
26

27 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

28  
THIRD CAUSE OF ACTION  
(42 U.S.C. section 1983)

(Against Defendant CITY AND COUNTY OF SAN FRANCISCO)

37. Plaintiff hereby realleges and incorporates by reference herein paragraphs 1 through 36 of this Complaint.

38. As against Defendant CITY, Defendant FONG and/or DOES 11-25 in her/their capacity as official policy-maker(s) for the CITY AND COUNTY OF SAN FRANCISCO, plaintiff further alleges that the acts and/or omissions alleged in the Complaint herein are indicative and representative of a repeated course of conduct by members of the CITY AND COUNTY OF SAN FRANCISCO Police Department tantamount to a custom, policy or repeated practice of condoning and tacitly encouraging the abuse of police authority, and disregard for the constitutional rights of citizens.

39. Plaintiff is further informed and believes and thereon alleges that the acts and omissions alleged herein are the direct and proximate result of the deliberate indifference of Defendants CITY, FONG, DOES 11-25, and each of them, to repeated acts of police misconduct which were tacitly authorized, encouraged or condoned by the Defendant CITY, Defendant FONG, DOES 11-25, and each of them.

40. The injuries and damages to Plaintiff as alleged herein were the foreseeable and proximate result of said customs, policies, patterns and/or practices of Defendant CITY, Defendant FONG, DOES 11-25, and each of them.

41. Plaintiff is further informed and believes and thereon alleges that the damages sustained as alleged herein were the direct and proximate result of municipal customs and/or policies of deliberate indifference in the training, supervision and/or discipline of members of the Defendant SAN FRANCISCO Police Department.

1 42. Plaintiff is further informed and believes and upon such information and belief alleges  
2 that Plaintiff's damages and injuries were caused by customs, policies, patterns or practices of  
3 Defendant CITY, Defendant FONG, DOES 11-25, and each of them, of deliberate indifference in the  
4 training, supervision and/or discipline of Defendant SERNA, ARTIGA, DOES 1-10, and/or each of  
5 them.  
6

7 43. The aforementioned customs, policies or practices of Defendant CITY, Defendant  
8 FONG, DOES 11-25, and each of them, resulted in the deprivation of Plaintiff's constitutional rights  
9 including, but not limited to, the following:  
10

11 a. The right to be free from unreasonable searches and seizures, as guaranteed by the Fourth  
12 and Fourteenth Amendments to the United States Constitution;

13 44. These rights are substantive guarantees under the Fourth and/or Fourteenth  
14 Amendments to the United States Constitution.  
15

16 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

17 FOURTH CAUSE OF ACTION

18 (Assault and Battery)

19 (Against Defendants SERNA, ARTIGA and DOES 1-10)

20 45. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 44 of this  
21 Complaint.  
22

23 46. Defendants SERNA, ARTIGA and DOES 1-10, inclusive, placed Plaintiff in  
24 immediate fear of death and severe bodily harm by attacking and battering her without any just  
25 provocation or cause.

26 47. These defendants' conduct was neither privileged nor justified under statute or  
27 common law.

28 48. As a proximate result of defendants' conduct, Plaintiff suffered damages as  
hereinafter set forth.

1 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

2 FIFTH CAUSE OF ACTION  
3 (False Imprisonment)  
4 (Against Defendants SERNA, ARTIGA and DOES 1-10)

5 49. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 48 of  
6 this Complaint.

7 50. Defendants SERNA, ARTIGA and DOES 1-10, inclusive, falsely imprisoned Plaintiff  
8 without probable cause. Plaintiff had not committed any of the crimes with which she was cited, and  
9 there was no basis upon which defendants could have reasonably believed that plaintiff had  
10 committed any of the crimes with which she was cited.

11 51. Defendants SERNA, ARTIGA and DOES 1-10, inclusive, failed to observe proper  
12 procedures in falsely imprisoning Plaintiff without probable cause. These defendants exceeded the  
13 limits of their authority as police officers in falsely imprisoning the plaintiff without probable cause,  
14 and in using excessive and unnecessary force against plaintiff while they falsely imprisoned her.  
15

16 52. As a proximate result of defendants' conduct, Plaintiff suffered damages as hereinafter  
17 set forth.

18 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

19 SIXTH CAUSE OF ACTION  
20 (Intentional Infliction of Emotional Distress)  
21 (Against Defendants SERNA, ARTIGA and DOES 1-10)

22 53. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 52 of this  
23 Complaint.

24 54. The conduct of Defendants SERNA, ARTIGA and DOES 1-10, inclusive, as set forth  
25 herein, was extreme and outrageous and beyond the scope of conduct which should be tolerated by  
26  
27  
28

1 citizens in a democratic and civilized society. Defendants committed these extreme and outrageous  
2 acts with the intent to inflict severe mental and emotional distress upon Plaintiff.

3  
4 55. As a proximate result of Defendants' willful, intentional and malicious conduct,  
5 plaintiff suffered severe and extreme mental and emotional distress. Therefore, Plaintiff is entitled to  
6 an award of punitive damages as against said defendants. Plaintiff has suffered damages as  
7 hereinafter set forth.

8 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.  
9

10 SEVENTH CAUSE OF ACTION  
11 (Violation of Civil Code Section 51.7)  
12 (Against Defendants SERNA, ARTIGA and DOES 1-10)

13 56. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 55 of this  
14 complaint.

15 57. Plaintiff is informed and believes and thereon alleges that the conduct of Defendants  
16 SERNA, ARTIGA and DOES 1-10, inclusive, as described herein, was motivated by racial prejudice  
17 against Plaintiff. Plaintiff is and was readily recognizable as Asian-American. In engaging in such  
18 conduct, defendants violated Plaintiff's rights under California Civil Code Section 51.7 to be free  
19 from violence, or intimidation by threat of violence committed against her because of her race.  
20

21 58. Under the provisions of California Civil Code Section 52(b), Defendants are liable for  
22 each violation of Civil Code Section 51.7 for punitive damages, an additional \$25,000.00, and for  
23 reasonable attorney's fees.  
24

25 59. As a proximate result of defendants' wrongful conduct, plaintiff suffered damages as  
26 hereinafter set forth.

27 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.  
28



EIGHTH CAUSE OF ACTION  
(Violation of Civil Code Section 52.1)  
(Plaintiff against Defendants SERNA, ARTIGA and DOES 1-10)

60. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 59 of this Complaint.

61. The conduct of Defendants SERNA, ARTIGA and DOES 1-10, inclusive, as described herein, acting in the course and scope of their employment for Defendant CITY, violated California Civil Code Section 52.1, in that they interfered with Plaintiff's exercise and enjoyment of her civil rights, through use of wrongful and excessive force, and failure to make any proper or reasonable detention of said Plaintiff.

62. As a direct and proximate result of Defendants' violation of Civil Code Section 52.1, Plaintiff suffered violation of her constitutional rights, and suffered damages as set forth herein.

63. Since this conduct occurred in the course and scope of their employment, Defendant CITY is therefore liable to Plaintiff pursuant to respondeat superior.

64. Plaintiff is entitled to injunctive relief and an award of his reasonable attorney's fees pursuant to Civil Code Section 52.1(h).

WHEREFORE, Plaintiff prays for relief, as hereinafter set forth.

NINTH CAUSE OF ACTION  
(Negligence)  
(Against Defendants CITY, SERNA, ARTIGA and DOES 1-10)

65. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 64 of this complaint, except for any and all allegations of intentional, malicious, extreme, outrageous, wanton, and oppressive conduct by defendants, and any and all allegations requesting punitive damages.

WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

## JURY DEMAND

68. Plaintiff hereby demands a jury trial in this action.

## PRAYER

WHEREFORE, Plaintiff prays for relief, as follows:

1. For general damages in a sum of \$500,000.00;
2. For special damages in a sum according to proof;
3. For punitive damages in a sum of \$500,000.00 against Defendant Officers SERNA and ARTIGA;
4. For reasonable attorney's fees pursuant to 42 U.S.C. Section 1988;
5. For injunctive relief, pursuant to California Civil Code Section 52.1, enjoining Defendant CITY AND COUNTY OF SAN FRANCISCO from authorizing, allowing, or ratifying the practice by any police officer employee of Defendant CITY from using excessive and unreasonable force against, and making false arrests of persons;

**The Law Offices of John L. Burris**

FIRST AMENDED COMPLAINT FOR VIOLATION OF CIVIL RIGHTS AND DAMAGES - 16